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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,013	07/27/2001	Young Lyeol Yang	HYLEE53.001AUS	5840

20995 7590 09/27/2002

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EXAMINER

AFREMOVA, VERA

ART UNIT PAPER NUMBER

1651

DATE MAILED: 09/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/921,013

Applicant(s)
Yang et al.

Examiner
Vera Afremova

Art Unit
1651



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jun 10, 2002
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 1-23 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s) _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other _____ |

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DETAILED ACTION

Claims 1-23 are pending and subject to restriction requirement.

Restriction

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-11, drawn to a microbial strain KCTC 0687BP, a method for producing polysaccharide by culturing microbial strain KCTC 0687BP and to a polysaccharide product obtained by culturing strain KCTC 0687BP, classified in class 435, subclass 243+, for example.
- II. Claims 12-17, drawn to a polysaccharide having particular molecular weight and derived from species of *Enterobacter*, classified in class 514, subclass 54+, for example.
- III. Claims 18-20, drawn to an *in vitro* method of inducing proliferation of immune cells with polysaccharide, classified in class 435, subclass 375, for example.
- IV. Claims 21 and 22, drawn to an *in vitro* method of inhibiting cancer cells with polysaccharide, classified in class 435, subclass 373, for example.
- V. Claim 23, drawn to an *in vivo* method for inhibiting cancer cell proliferation in a mammal with polysaccharide, classified in class 424, subclass 9.1, for example.

The inventions are distinct, each from the other because of the following reasons:

The Groups II polysaccharide composition is different from the Group I polysaccharide composition because the Group II polysaccharide has particular characteristics as claimed which

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are not required for the polysaccharide product of Group I as claimed and the Group II polysaccharide is not obtained by culturing specific strain as claimed what is required for the Group I polysaccharide composition as claimed.

The methods of Groups III and IV are different from each other because they comprises different active steps of contacting different cells with polysaccharide composition and they have different effects or results of treatment. The Group V method is distinct from the Groups II and IV methods because it is drawn to the use of a distinct system of application such as *an vivo* system as claimed unlike the *in vitro* methods of Group II and IV as claimed. Further, the product of Group II as claimed can be used in several materially different processes of using that product as claimed.

The several inventions above are independent and distinct, each from the other. They have acquired a separate status in the art as a separate subject for inventive effect and require independent searches (as indicated by different classification). The search for each of the above inventions is not co-extensive particularly with regard to the literature search. Further, a reference which would anticipate the Invention of Group I would not necessarily anticipate or make obvious the any of the other groups.

For these reasons restriction for examination purposes is proper.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vera Afremova whose telephone number is (703) 308-9351. The examiner can normally be reached on Monday to Friday from 9:00 to 5:30.

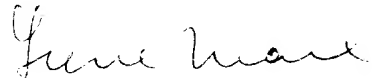
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn, can be reached on (703) 308-4743. The fax phone number for this Group is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Vera Afremova

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September 24, 2002.



IRENE MARY
PRIMARY EXAMINER